

REMARKS

In the outstanding Official Action of August 4, 2004, the Examiner required restriction of the claims in the present application to one of two distinct species. As indicated by the Examiner, the species are as follows:

I. Category A:

Species I, Figure(s) 1;

Species II, Figure(s) 4;

II. Category B:

Species I, Figure(s) 2;

Species II, Figure(s) 6.

Applicants hereby elect Species I, to which claims 1-3 and 5-7 are drawn.

However, Applicants respectfully traverse the above restriction requirement for at least the reasons set forth below.

Initially, Applicants note that each of the claims are directed towards at least an ejector comprising a convergent-divergent nozzle having a port formed between a suction port and a discharge port in which jet blowing holes are formed in the convergent-divergent nozzle for jetting a jet stream from the upstream to the downstream of the throat, thereby forming a negative pressure. Further, Applicants submit that each of the independent claims are generic and recite each of the above mentioned features.

Moreover, Applicants submit that each of the dependent claims include at least the above mentioned features due to their dependency. Thus, since the recitations of each of the independent claims as well as the various dependent claims are so closely related, Applicants submit that a restriction requirement is inappropriate. Accordingly, Applicants respectfully submit that all of the claims should be examined together.

Furthermore, Applicants respectfully traverse the Examiner's categorization that Figure 6 is directed towards Species II. In contrast to the Examiner's assertion, the specification clearly states, for example, on page 22, that Figure 6 illustrates a fluid conveyor using the ejector of the type shown in Figure 1 as a power source. Accordingly, Applicants respectfully submit that at least Figure 6 should be categorized and considered in association with the Examiner's categorization of Species I.

Additionally, the restriction requirement set forth by the Examiner omits one of the two criteria for a proper restriction. As set forth in MPEP § 803, an appropriate explanation must be set forth by the Examiner as to the existence of a serious burden if the restriction requirement were not required. By virtue of the Examiner's requirement, and since the claims are so closely related, it is submitted that there is no serious burden on the Examiner in examining both species together. Furthermore, Applicants submit that due to the nature of the claims, a search for the claims of one species would appear to include a significant amount of overlap with the search required for the other species, thereby imposing no serious burden on the Examiner.

Moreover, as noted, the Examiner must provide reasons and/or examples to support his conclusion, which was not done by the Examiner with respect to the serious burden issue.

For at least each of the reasons discussed above, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement in the present application. Accordingly, the restriction requirement is believed to be improper and has been respectfully traversed.

Nevertheless, in order to be fully responsive, Applicants have elected with traverse, the invention of Species I, comprising claims 1-3 and 5-7, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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